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TO: MAIL STOP APPEAL BRIEF - PATENTS

                    Examiner Jean D. Janvier

FAX NO: 1-571-273-8300

FROM: Gero G. McClellan

PAGE(S) with cover: 26

RE:
TITLE: **METHOD AND COMPUTER SYSTEM FOR PROCESSING ELECTRONIC
             REBATES**
U.S. SERIAL NO.:   09/835,731
FILING DATE: April 16, 2001
INVENTOR(S):   Kevin Peter Kepros et al.
EXAMINER: Jean D. Janvier
GROUP ART UNIT: 3622
CONFIRMATION NO.:   5661

Attached for the above-referenced application please find:

REVISED APPEAL BRIEF (in response to Notice of Non-Compliant Appeal Brief)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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In re Application of:	§	Confirmation No.: 5661
Kepros et al.	§	
	§	Group Art Unit: 3622
Serial No.: 09/835,731	§	
	§	Examiner: Jean D. Janvier
Filed: April 16, 2001	§	
	§	
For: METHOD AND COMPUTER	§	
SYSTEM FOR PROCESSING	§	
ELECTRONIC REBATES	§	

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REVISED APPEAL BRIEF (IN RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF)

Applicants submit this Revised Appeal Brief (In Response To Notice Of Non-Compliant Appeal Brief) to the Board of Patent Appeals and Interferences on appeal from the decision of the Examiner of Group Art Unit 3622 dated September 23, 2005, finally rejecting claims 1, 4-21, 24 and 27-44. The final rejection of claims 1, 4-21, 24 and 27-44 is appealed. The original Appeal Brief is believed to be timely since facsimile transmitted by the due date of February 23, 2006, as set by mailing a Notice of Appeal on December 23, 2005. The fee of $500.00 for filing the original brief is believed to have already been charged to Deposit Account No. 09-0465. While no fees are believed due, the Commissioner is hereby authorized to charge counsel's Deposit Account No. 09-0465/ROC920010002US1 for any fees, including extension of time fees or excess claim fees, required to make this response timely and acceptable to the Office.

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Real Party in Interest

The present application has been assigned to International Business Machines Corporation, Armonk, New York.

Related Appeals and Interferences

Applicant asserts that no other appeals or interferences are known to the Applicant, the Applicant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

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Status of Claims

Claims 1, 4-21, 24 and 27-44 are pending in the application. Claims 1-38 were originally presented in the application. Claims 2-3, 22-23 and 25-26 have been canceled without prejudice. Claims 1, 4-21, 24 and 27-44 stand finally rejected as discussed below. The final rejections of claims 1, 4-21, 24 and 27-44 are appealed. The pending claims are shown in the attached Claims Appendix.

Status of Amendments

All claim amendments have been entered by the Examiner. No amendments to the claims were proposed after the final rejection.

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Summary of Claimed Subject Matter

The present invention relates to methods, computer systems and computer readable storage media for processing electronic rebates.

One embodiment, e.g. claim 1, provides a method for processing electronic rebates utilizing a rebate server computer system, for example, rebate server computer 102 shown in Figure 1. *See ¶ 0021.* As shown in Figure 1, the rebate server computer 102 may be connected to a store computer system 104 and user computer system 106 over a network 108 to process electronic rebates. *See Id.* The method comprises performing a process of linking a purchase identifier to a purchase of a product. *See ¶'s 0021, 0034; see also* Figures 2 and 3. The process comprises receiving, by the rebate server computer system 102 via network 108, a request for the purchase identifier from the store computer system 104. *See ¶ 0031; see also* steps 204, 206, 208 of Figure 2. The process further comprises generating, by the rebate server computer system, the purchase identifier for the purchase of the product. *See ¶ 34; see also* step 304 of Figure 3. The process also comprises transmitting, by the rebate server computer system via the network, the purchase identifier to the store computer system. *See ¶ 34; see also* step 308 of Figure 3.

The method further comprises receiving information, via the network, entered by a user of a user computer system to complete a rebate claim for the purchased product (*See ¶'s 35, 36; see also* steps 404, 406, and 408 of Figure 4), and verifying the received information to determine whether the received information includes a match to the purchase identifier previously generated by the rebate server computer system (*See ¶'s 37-40; see also* steps 410, 412, 414, 416, and 418 and 420 of Figure 4). If the received information is verified as a valid rebate claim the rebate claim from the user is accepted. *Id.*

Another embodiment, e.g. claim 24, provides a tangible computer readable medium containing a program which, when executed, performs operations for processing electronic rebates utilizing a rebate server computer system, for example, rebate server computer 102 shown in Figure 1. *See ¶ 0021.* The rebate server computer 102 may be connected to a store computer system 104 and user computer

system 106 over a network 108 to process electronic rebates. *See Id.* The operations comprise performing a process of linking a purchase identifier to a purchase of a product. *See ¶'s 0021, 0034; see also* Figures 2 and 3. The process comprises receiving, by the rebate server computer system 102 via network 108, a request for the purchase identifier from the store computer system 104. *See ¶ 0031; see also* steps 204, 206, 208 of Figure 2. The process further comprises generating, by the rebate server computer system, the purchase identifier for the purchase of the product. *See ¶* 34; see *also* step 304 of Figure 3. The process also comprises transmitting, by the rebate server computer system via the network, the purchase identifier to the store computer system. *See ¶* 34; *see also* step 308 of Figure 3.

The operations further comprise receiving information, via the network, entered by a user of a user computer system to complete a rebate claim for the purchased product (*See ¶'s* 35, 36; *see also* steps 404, 406, and 408 of Figure 4), and verifying the received information to determine whether the received information includes a match to the purchase identifier previously generated by the rebate server computer system (*See ¶'s* 37-40; *see also* steps 410, 412, 414, 416, and 418 and 420 of Figure 4). If the received information is verified as a valid rebate claim the rebate claim from the user is accepted. *Id.*

Yet another embodiment of the invention, e.g., claim 16, provides a rebate server computer system, for example, rebate server computer 102 shown in Figure 1 for processing electronic rebates. *See ¶* 0021. The rebate server computer system comprises a memory, e.g., memory 110 shown in Figure 1, for storing an electronic rebate program, e.g., program 122 shown in Figure 1, and a processor, e.g., processor 112 shown in Figure 1. The processor, upon executing the electronic rebate program is configured to link a purchase identifier to a purchase of a product. *See ¶'s* 0021, 0034; *see also* Figures 2 and 3. Linking comprises receiving, by the rebate server computer system via a network, a request for the purchase identifier from a store computer system connected to the network. *See ¶* 0031; *see also* steps 204, 206, 208 of Figure 2. Linking further comprises generating, by the rebate server computer system, the purchase identifier for the purchase of the product. *See ¶* 34; see *also* step 304 of Figure 3. Linking also comprises transmitting, by the rebate server computer system

via the network, the purchase identifier to the store computer system. *See* ¶ 34; *see also* step 308 of Figure 3.

The processor is further configured to receive information, via a network, entered from a user of a user computer system to complete a rebate claim for the purchased product (*See* ¶'s 35, 36; *see also* steps 404, 406, and 408 of Figure 4), and verify the received information to determine whether the received information includes a match to the purchase identifier previously generated by the rebate server computer system (*See* ¶'s 37-40; *see also* steps 410, 412, 414, 416, and 418 and 420 of Figure 4). The processor is also configured to accept the rebate claim if the received information is verified as a valid rebate claim. *Id.*

Grounds of Rejection to be Reviewed on Appeal

1. Claims 1, 4-21, 24 and 27-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Quinlan et al.*, U.S. Pat. No. 6,748,365 B1 (hereinafter *Quinlan*) in view of *Van Dusen et al.*, U.S. Pat. No. 6,175,823 B1 (hereinafter *Van Dusen*).

ARGUMENTS

Obviousness of Claims 1, 4-21, 24 and 27-44 over *Quinlan et al.* in view of *Van Dusen et al.*

The Applicable Law

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP § 2143. The present rejection fails to establish at least the first and third criterion.

Furthermore, to rely on a reference under 35 U.S.C. § 103, the reference must be analogous prior art. *See* MPEP § 2141.01(a). A reference is considered analogous prior art if the reference is either in the field of Applicants' endeavor or, if the reference is reasonably pertinent to the particular problem with which the inventor was concerned. *Id.* A reference is pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem. *See id.*, citing *Wang Laboratories v. Toshiba Corp.*, 993 F.2d 858 (Fed. Cir. 1993). Furthermore, when determining whether a reference is analogous, the Examiner cannot look at isolated teachings of the prior art without considering the over-all context within which those teachings are presented. *In re Pagliaro*, 657 F.2d 1219, 1225 (Cust & Pat.App., 1981). Thus, the Examiner must consider each reference as a whole and determine if the reference as a whole is concerned with problems associated with the pending application. *Id.*

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The References

Quinlan is directed to a method for processing product marketing rebate claims submitted by a consumer in satisfaction of a rebate offer. Abstract. When a consumer buys a product, a transaction serial number is assigned to and recorded by the point of sale data processing and storage system. Column 4, Lines 43-46. The point of sale data processing system issues a receipt containing the corresponding transaction serial number to the customer. Column 4, Lines 46-47. An electronic file transfer may transfer the transaction serial number and other customer identifying information stored at the point of sale computer system to a designated site. Column 4, Lines 58-65. A customer may transfer a rebate claim comprising the transaction number and identifying information corresponding to the customer to the designated site over a global computer information network. Column 4, Lines 51-55. Consumer access to the designated site may also include telephone, paper based and smart/credit/debit card based rebate claims. Abstract. The rebate claim is compared to the electronic file transfer to verify the claim and issue the rebate to the customer. Column 4, Lines 65-67; Column 5, Lines 1-3.

Van Dusen describes an electronic gift certificate verification system wherein gift certificates are distributed via email. A Web Site may offer a range of products to consumers and allow consumers to make online purchases. Column 3, Lines 25-35. The products include electronic gift certificates. Column 3, Lines 39-40 ("gift certificate order form page that can be used to place an order for an electronic gift certificate".) The web site may generate web pages in response to actions of end users which include processing gift certificate orders and redemption requests. Column 5, Lines 48-57. When a purchaser buys a gift certificate, a gift certificate email is sent to the recipient of the gift certificate. Column 3, Line 60. The recipient must be registered with the web site to redeem the gift certificate. Column 3, Lines 64-65. The email contains a hyperlink. Column 3, Line 67; Column 4, Line 1. The hyperlink contains a claim code that uniquely identifies the gift certificate. Column 4, Line 7. The claim code is generated by the web site. Column 6, Lines 11-15. A look-up table is maintained by

the web site containing claim codes and user information to verify redemptions of gift certificates. Column 5, Line 65.

Applicants' Argument

Applicants respectfully submit that the present rejection is defective because *Van Dusen* is non-analogous art, and because the Examiner has not met the initial burden of establishing a prima facie case of obviousness.

Non-analogous Art:

As an initial matter, Applicants respectfully submit that *Van Dusen* is non-analogous art because *Van Dusen* does not disclose a method for processing electronic rebates (the Applicants' field of endeavor); rather, *Van Dusen* teaches a method for processing gift certificates. Further, *Van Dusen* is not reasonably pertinent to the particular problem(s) with which the present inventors are concerned; nor would *Van Dusen* logically commend itself to the attention of one considering the Applicants' problem.

The business model for implementing a gift certificate is significantly different from the business model for implementing a rebate. A gift certificate must be purchased as a separate product and applied towards (possible) future purchases of other products or services. On the other hand, a rebate is not a separately purchased product and, by definition, applies to the purchased product itself and cannot be applied to other distinct products. Relatedly, rebates are tied to a particular product, whereas gift certificates are typically not. Further, gift certificates are intended to be purchased by one person for the benefit of another, which is not the case with rebates. Rebates are "established weapon[s] in the marketer's arsenal of methods to entice a customer to buy a product." *Quinlan*, Column 1, Lines 16-18. Consequently, the underlying business models for gift certificates are vastly different from the models for processing rebates.

It follows that the underlying problems related to rebates and gift certificates are also fundamentally different. Prior art rebate processing involves manual steps including cutting out product codes from the product, gathering original sales receipts,

filling a rebate form, and mailing these items to the manufacturer. *See* Disclosure, ¶ 7. Another significant problem with prior art rebate processing is that the turn around time for receiving a rebate is very long, e.g., often eight to twelve weeks. See Disclosure, ¶ 5. The problems associated with gift certificate processing solved by *Van Dusen* are limited to erroneous claim code entry and claim code preservation to improve the efficiency and reliability of gift certificate processing. *Van Dusen*, Column 2, Lines 1-15. Gift certificate processing does not include manual steps including cutting out product codes from the product, gathering original sales receipts, filling a rebate form, and mailing these items to the manufacturer. Furthermore, because the benefit of gift certificates can be realized at the time of a subsequent purchase, gift certificate processing does not face the problem of long turn around times associated with mailing materials and receiving rebate checks from manufacturers.

Therefore, *Van Dusen* is not analogous prior art because *Van Dusen* is neither in the field of Applicants' endeavor nor is *Van Dusen* reasonably pertinent to the particular problem with which the present inventors are concerned. Further, *Van Dusen* would not logically commend itself to the attention of one considering the Applicants' problem.

Prima Facie Case of Non-Obviousness:

Further, Applicants respectfully submit that the Examiner has not met the initial burden of establishing a prima facie case of obviousness. Specifically, *Quinlan* and *Van Dusen*, alone or in combination, do not teach, show or suggest all the claim limitations recited in claims 1, 16, and 24, and claims dependent thereon. Further, the Examiner has failed to show that there is some suggestion or motivation, either in *Quinlan* or *Van Dusen* themselves or in the knowledge generally available to one ordinarily skilled in the art to modify the references or combine the reference teachings.

1. All Limitations

Regarding the limitations disclosed by *Van Dusen* the Examiner argues that:

> "*Van Dusen* (in the secondary reference) teaches, among other things, a process for generating by a server pool of claim codes or purchase or transaction identifiers and transmitting a unique purchase identifier or claim code to a remote computer during a (purchase)

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transaction upon receiving a signal from the remote computer used by a buyer to purchase a gift certificate from a web site related to the server, wherein the purchase identifier is appended to the gift certificate and wherein the claim code or purchase identifier is used during the gift certificate redemption..."

However, *Van Dusen* does not disclose transmitting, by a rebate server computer system via a network, a purchase identifier to a store computer system that requested the purchase identifier. *Van Dusen* teaches sending a gift certificate email containing a claim code <u>to the recipient of a gift certificate</u> instead of transmitting the purchase identifier to the requesting store computer. *Van Dusen* Column 3, Lines 60-62; Column 4, Lines 7-9. Therefore, *Van Dusen* does not disclose transmitting, by the rebate server computer system via the network, the purchase identifier to the store computer system that requested the purchase identifier. *Quinlan* does not disclose transmitting (nor does the Examiner argue that *Quinlan* does not discloses), by the rebate server computer system via the network, the purchase identifier to the store computer system that requested the purchase identifier. Therefore, neither *Van Dusen* nor *Quinlan* disclose all the claimed liminations.

2. Motivation

Regarding the motivation to combine, Applicants submit that because *Van Dusen* and *Quinlan* are directed to such vastly different models and problems, a person skilled in the art would not be motivated to combine the references. While motivation may be found even where the problems to be solved are different (see, MPEP § 2144), Applicants suggest that in this case the references are directed to irreconcilably different issues and related problems, for the reasons given above (see, section entitled "Non-analogous art). The substantial differences between processing rebates (as in *Quinlan*) and processing gift cards (*Van Dusen*) prevent the necessary motivation from arising. Therefore, there is no suggestion or motivation, either in *Quinlan* or *Van Dusen* themselves or in the knowledge generally available to one ordinarily skilled in the art to modify the references or combine the reference teachings as suggested by the Examiner.

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CONCLUSION

The Examiner errs in finding that claims 1, 4-21, 24 and 27-44 are unpatentable over *Quinlan*. in view of *Van Dusen* under 35 U.S.C. § 103(a). Withdrawal of the rejection and allowance of all claims is respectfully requested.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

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CLAIMS APPENDIX

1.   (Previously Presented)   A method for processing electronic rebates utilizing a rebate server computer system, the method comprising:

linking a purchase identifier to a purchase of a product, wherein the linking comprises:

receiving, by the rebate server computer system via a network, a request for the purchase identifier from a store computer system connected to the network;

generating, by the rebate server computer system, the purchase identifier for the purchase of the product; and

transmitting, by the rebate server computer system via the network, the purchase identifier to the store computer system;

receiving information, via the network, entered by a user of a user computer system to complete a rebate claim for the purchased product;

verifying the received information to determine whether the received information includes a match to the purchase identifier previously generated by the rebate server computer system; and

accepting the rebate claim from the user if the received information is verified as a valid rebate claim.

2.   (Canceled)

3.   (Canceled)

4.   (Original)   The method of claim 1 wherein the purchase identifier is listed on a receipt upon the purchase of the product.

5.   (Original)   The method of claim 1 wherein the purchase identifier is contained in an electronic mail message transmitted from the store computer system to an electronic mail address accessible using the user computer system.

6.   (Original)   The method of claim 1 further comprising:

transmitting an electronic mail message containing the purchase identifier, to an electronic mail address accessible using the user computer system.

7.   (Original)   The method of claim 1 further comprising:

providing a web page, via the network, to the user computer system to enable the receipt of information for the rebate claim.

8.   (Original)   The method of claim 1 further comprising:

verifying whether the rebate claim is a valid request for the rebate.

9.   (Previously Presented)   The method of claim 8 wherein the verifying comprises:

determining whether the rebate claim was previously processed.

10.   (Previously Presented)   The method of claim 8 wherein the verifying comprises:

determining whether a limit of rebates for the product has been exceeded.

11.   (Previously Presented)   The method of claim 8 wherein the verifying comprises:

determining whether the product was previously returned.

12.   (Original)   The method of claim 1 further comprising:

issuing a check to the user identified on the rebate claim.

13.   (Original)   The method of claim 1 further comprising:

transferring the rebate electronically to an account of the user identified on the rebate claim.

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14.   (Original)   The method of claim 1 wherein the user computer system comprises one of a personal digital assistant (PDA) device and a personal computer.

15.   (Original)   The method of claim 1 wherein the network comprises the Internet and the received information is submitted from the user computer using a web browser program.

16.   (Previously Presented)   A rebate server computer system for processing electronic rebates, the rebate server computer system comprising:

    a memory for storing an electronic rebate program;

    a processor which, upon executing the electronic rebate program is configured to:

        link a purchase identifier to a purchase of a product, wherein the linking comprises:

            receiving, by the rebate server computer system via a network, a request for the purchase identifier from a store computer system connected to the network;

            generating, by the rebate server computer system, the purchase identifier for the purchase of the product; and

            transmitting, by the rebate server computer system via the network, the purchase identifier to the store computer system;

        receive information, via a network, entered from a user of a user computer system to complete a rebate claim for the purchased product;

        verify the received information to determine whether the received information includes a match to the purchase identifier previously generated by the rebate server computer system; and

        accept the rebate claim if the received information is verified as a valid rebate claim.

17.   (Previously Presented)   The rebate server computer system of claim 16 wherein the memory further stores a http (Hypertext Protocol) server program.

18.   (Previously Presented)   The rebate server computer system of claim 16 wherein the user computer system comprises one of a personal digital assistant (PDA) device and a personal computer.

19.   (Previously Presented)   The rebate server computer system of claim 16 wherein the network comprises the Internet and the received information is submitted from the user computer using a web browser program.

20.   (Previously Presented)   The rebate server computer system of claim 16 wherein the purchase identifier is listed on a receipt upon the purchase of the product.

21.   (Previously Presented)   The rebate server computer system of claim 16 wherein the purchase identifier is contained in an electronic mail message transmitted to an electronic mail address accessible using the user computer.

22.   (Canceled)

23.   (Canceled)

24.   (Previously Presented)   A computer readable medium storing a software program that, when executed by a computer, causes the computer to perform a method comprising:

linking a purchase identifier to a purchase of a product, wherein the linking comprises:

receiving, by a rebate server computer system via a network, a request for the purchase identifier from a store computer system connected to the network;

generating, by the rebate server computer system, the purchase identifier for the purchase of the product; and

transmitting, by the rebate server computer system via the network, the purchase identifier to the store computer system;

receiving information, via the network, entered by a user of a user computer system to complete a rebate claim for the purchased product;

verifying the received information to determine whether the received information includes a match to the purchase identifier previously generated by the rebate server computer system; and

accepting the rebate claim from the user if the received information is verified as a valid rebate claim.

25.   (Canceled)

26.   (Canceled)

27.   (Original)   The computer readable medium of claim 24 wherein the purchase identifier is listed on a receipt upon the purchase of the product.

28.   (Original)   The computer readable medium of claim 24 wherein the purchase identifier is contained in an electronic mail message transmitted from the store computer system to an electronic mail address accessible using the user computer system.

29.   (Original)   The computer readable medium of claim 24 further comprising:
transmitting an electronic mail message containing the purchase identifier to an electronic mail address accessible using the user computer system.

30.   (Original)   The computer readable medium of claim 24 wherein the method further comprises:
providing a web page, via the network, to the user computer system to enable the receipt of information for the rebate claim.

31.   (Original)   The computer readable medium of claim 24 wherein the method further comprises:
verifying whether the rebate claim is a valid request for the rebate.

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32.   (Previously Presented)   The computer readable medium of claim 31 wherein the verifying comprises:

determining whether the rebate claim was previously processed.

33.   (Previously Presented)   The computer readable medium of claim 31 wherein the verifying comprises:

determining whether a limit of rebates for the product has been exceeded.

34.   (Previously Presented)   The computer readable medium of claim 31 wherein the verifying comprises:

determining whether the product was previously returned.

35.   (Original)   The computer readable medium of claim 24 wherein the method further comprises:

issuing a check to the user identified on the rebate claim.

36.   (Original)   The computer readable medium of claim 24 wherein the method further comprises:

transferring the rebate electronically to an account of the user identified on the rebate claim.

37.   (Original)   The computer readable medium of claim 24 wherein the user computer system comprises one of a personal digital assistant (PDA) device and a personal computer.

38.   (Original)   The computer readable medium of claim 24 wherein the network comprises the Internet and the received information is submitted from the user computer using a web browser program.

39.   (Previously Presented)   The method of claim 1 wherein the purchase identifier is a unique identifier utilized only for rebate purposes.

40.   (Previously Presented)   The method of claim 1 wherein the rebate server computer system is operated by a product manufacturer and the store computer system is operated by a retail store.

41.   (Previously Presented)   The rebate server computer system of claim 16 wherein the purchase identifier is a unique identifier utilized only for rebate purposes.

42.   (Previously Presented)   The rebate server computer system of claim 16 wherein the rebate server computer system is operated by a product manufacturer and the store computer system is operated by a retail store.

43.   (Previously Presented)   The computer readable medium of claim 24 wherein the purchase identifier is a unique identifier utilized only for rebate purposes.

44,   (Previously Presented)   The computer readable medium of claim 24 wherein the rebate server computer system is operated by a product manufacturer and the store computer system is operated by a retail store.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.

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